



**US Army Corps  
of Engineers**  
Louisville District

# Public Notice

Public Notice No.

200400646

Date:

07 Jul 04

Closing Date:

05 Aug 04

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Mr. Jerry Sparks, CELRL-OP-FS

845 Sassafras Creek Road

Sassafras, Kentucky 41759-8806

Phone: (606) 642-3053

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA)

APPLICANT: Jackson County Water Association (JCWA)  
P.O. Box 232  
Tyner, Kentucky 40486

AGENT: Kenvirons, Inc.  
452 Versailles Road  
Frankfort, Kentucky 40601

LOCATION: The proposed dam site is located within the Daniel Boone National Forest approximately 3,500 feet upstream of the bridge over War Fork, in Jackson County Kentucky.

Latitude: 37-27-43  
Longitude: 83-55-11  
7.5 Minute Quad: McKee, Kentucky

PURPOSE: To construct a reservoir in order to provide an adequate water supply for the projected residential, commercial and industrial needs of Jackson County and parts of some neighboring counties. Additionally, the lake would provide recreational opportunities to meet the present and future needs of Jackson County and the surrounding region.

DESCRIPTION OF WORK: The proposed construction would consist of a roller-compacted concrete (RCC) gravity dam 105 feet wide at the base (parallel to stream flow) and approximately 730 feet long at the top (perpendicular to the stream flow), and 128 feet high. The construction of the dam would necessitate the discharge of approximately 2000 cubic yards of RCC into a regulated "water of the U.S.". The dam would create a 121 acre reservoir providing a water storage capacity of 4,400 acre feet at normal pool elevation (995 feet above mean sea level). Construction of the proposed dam would fill approximately 0.21 acres of War Fork. The proposed area of the reservoir at the normal pool elevation of 839 feet msl would inundate a total of 17,184 linear feet or approximately 10.4 acres of War Fork, Steer Fork and several of their tributaries. In addition, the impoundment would inundate approximately 111 acres of forest. A staging area on the downstream side of the proposed dam would temporarily impact approximately 0.4 acres of War Fork.

A raw water intake structure, 3.5 million gallon per day (MGD) pump station and 50,000 feet of 18 inch raw water transmission main would be

constructed from the proposed reservoir to carry water to the currently existing raw water supply, Beulah Lake located in Tyner, Kentucky. A by-pass line is also proposed to feed water directly from the proposed reservoir to the JCWA treatment plant. Construction of raw water transmission pipelines would occur within a four month period running concurrent with the construction of the RCC dam. The transmission pipeline would cross one perennial stream (Hughes Fork) and two intermittent unnamed tributaries. The temporary impacts resulting from the pipeline crossings of these three streams would be limited to 0.03 acres.

Other proposed activities would include the clearing of the impoundment area and diversion of the stream around and/or through the construction area. Proposed recreational development around the reservoir would include a boat ramp, boat dock, public beach, hiking trails, picnic areas, and a primitive campground. The plans provided with the application for these recreation facilities are conceptual drawings identifying possible locations for the proposed recreational facilities.

The applicant submitted a mitigation plan that supplements information contained in a supporting Environmental Impact Statement (EIS) published in May 2001. The United States Department of Agriculture, Rural Utilities Service served as the lead agency for this effort along with the United States Forest Service as a cooperating agency. This EIS is available on the internet at the following web address: <http://www.usda.gov/rus/water/ees/feis-jc.htm> The Record of Decision for this EIS was issued in September 2001 and is available at the following web address: <http://www.usda.gov/rus/water/ees/pdf/RODjackson.pdf> Hard copies of these documents are also available at the Eastern Kentucky Regulatory Office located at the address noted above and may be reviewed by appointment.

The overall ecological function and quality of the streams that may be impacted was determined using the *Stream Assessment Protocol for Headwater Streams in the Eastern Kentucky Coalfield Region*. Using this protocol, the applicant has estimated a potential loss of 17,184 Ecological Integrity Units. These impacts include the federally identified Special Aquatic Sites known as Riffle/Pool complexes characterizing the affected stream habitats. To compensate for this loss the applicant proposes the creation of vegetated shallow wetlands around the proposed lake. This would involve the construction of a 15-foot wide bench around 21,946 linear feet of the proposed reservoir perimeter. This bench would be seeded with an obligate-facultative wetland mixture and supplemented with floating leaf and aquatic plants producing a vegetated shallow. Vegetated shallows are also considered as a type of Special Aquatic Site. A 300-foot upland vegetated buffer would be maintained around the entire perimeter of the reservoir to limit soil erosion and maximize the ecological function of the lake. This buffer would be composed of mature tree and shrub species preserved during reservoir construction. The Jackson County Empowerment Zone (JCEZ) also proposes to purchase Humongous Cave and the associated 228 acres of terrestrial land and 500 linear feet of stream habitat as part of the mitigation package. This property contains a known population of the federally listed Indiana Bat as well as the regionally sensitive Rafinesque's Big-Eared Bat.

It is noted that the applicant-proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the Kentucky Natural Resources and Environmental Protection Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act; therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest that might be damaged by issuance of the DA Permit.

The National Register of Historic Places (NRHP) has been examined and it has been determined that there are no properties currently listed on the Register that would be directly affected by the proposed work. With respect to other sites not currently listed on the Register, if we are made aware, as a result of comments received in response to this notice or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 -Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on

the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or supplementing the existing Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections that are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Mr. Jerry Sparks, CELRL-OP-FS at the address noted above and should refer to the Public Notice Number 200400646.